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District of Arizona  
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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

United States of America,  
Plaintiff,  
v.  
Ramon Frias-Frias,  
a.k.a. Ramon Frias,  
Defendant.

No. CR- **CR '07 02 45 PHX FJM**  
MAGISTRATE NO. 07-1481M  
**PLEA AGREEMENT**  
(Fast Track 5K3.1)  
(Defendant Not on Supervised Release)

The United States of America and the defendant agree to the following disposition of this matter:

PLEA

The defendant agrees to plead guilty to the Information charging the defendant with a violation of Title 8, United States Code, Section 1326(a), enhanced by Title 8, United States Code, Section 1326(b)(1), Reentry After Deportation, a class C felony.

STIPULATIONS, TERMS AND AGREEMENTS

Defendant understands that the guilty plea is conditioned upon the following terms, stipulations, and requirements:

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1 of 7, which will classify the defendant in offense level 17, which carries a sentence of between  
2 24 and 63 months of incarceration, depending on the defendant's criminal history.

3 **(B) Level 12 Offenses.** Under the Sentencing Guidelines, as set forth in U.S.S.G. §  
4 2L1.2(a) and (b)(1)(D) and (b)(1)(E), Unlawful Reentry After Deportation by an alien with a  
5 prior felony conviction or three or more convictions for misdemeanors that are crimes of  
6 violence or drug trafficking offenses, is classified as a crime with an offense level of 12, and  
7 carries a sentence between 10 and 37 months of incarceration, which will be precisely  
8 determined by the court, based upon the defendant's criminal record.

9 If the defendant has a conviction which falls under U.S.S.G. § 2L1.2(b)(1)(D) or (b)(1)(E)  
10 and is not on supervised release, the government and the defendant agree that the defendant shall  
11 receive a two-level downward adjustment for acceptance of responsibility and an additional two  
12 month downward departure from the low end of the guideline range pursuant to U.S.S.G. §  
13 5K3.1. This will result in a total offense level reduction under the plea agreement of level 10  
14 less two months, which carries a stipulated sentence of between 4 and 22 months of  
15 incarceration, depending on the defendant's criminal history category.

16 If it is discovered that the defendant is on supervised release, the government reserves the  
17 right to withdraw from this agreement.

18 This agreement is conditioned on the defendant having less than 18 criminal history  
19 points. If the defendant has 18 or more criminal history points the government shall have the  
20 right to withdraw from this agreement.

21 This agreement is conditioned upon the defendant having no aggravated felony  
22 convictions. If the government determines that the defendant has any aggravated felony  
23 convictions, the government reserves the right to withdraw from this agreement.

24 Defendant understands and agrees that this plea agreement contains all the terms,  
25 conditions and stipulations regarding sentencing. If defendant requests or if the court authorizes  
26 (a) any downward departure; (b) any reduction of criminal history category which differs from  
27 that set forth in the presentence report; or (c) any other reduction of sentence not specifically  
28 agreed to in writing by the parties, the government may withdraw from the plea agreement.

1 If the court, after reviewing this plea agreement, concludes any provision is inappropriate,  
2 it may reject the plea agreement, giving either party, in accordance with Rule 11(d)(2)(A), Fed.  
3 R. Crim. P., an opportunity to withdraw from the guilty plea and this agreement.

4 If the court departs from the terms and conditions set forth in this plea agreement, either  
5 party may withdraw.

#### 6 Waiver of Defenses and Appeal Rights

7 Defendant waives any and all motions, defenses, probable cause determinations, and  
8 objections which defendant could assert to the information or indictment, or to the court's entry  
9 of judgment against defendant and imposition of sentence upon defendant, provided that the  
10 sentence is consistent with this agreement. Defendant further waives: (1) any right to appeal the  
11 court's entry of judgment against defendant; (2) any right to appeal the imposition of sentence  
12 upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); and (3) any  
13 right to collaterally attack defendant's conviction and sentence under Title 28, United States  
14 Code, Section 2255, or any other collateral attack. Defendant acknowledges that this waiver  
15 shall result in the dismissal of any appeal or collateral attack defendant might file challenging  
16 his conviction or sentence in this case.

#### 17 Perjury and Other False Statements or Other Offenses

18 Nothing in this agreement shall be construed to protect defendant in any way from  
19 prosecution for perjury, false declaration or false statement, or any other offense committed by  
20 defendant after the date of this agreement. In addition, if defendant commits any criminal  
21 offense between the date of this agreement and the date of sentencing, the government will have  
22 the right to withdraw from this agreement. Any information, statements, documents or other  
23 evidence defendant provides to the United States pursuant to this agreement may be used against  
24 the defendant in all such proceedings.

#### 25 Reinstitution of Prosecution

26 If defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any court in a  
27 later proceeding, the government will be free to prosecute the defendant for all charges of which  
28 it has knowledge, and any charges that have been dismissed or not alleged because of this plea

1 agreement will be automatically reinstated. In such event, defendant waives any objections,  
2 motions, or defenses based upon the Speedy Trial Act or the Sixth Amendment to the  
3 Constitution as to the delay occasioned by the later proceedings. Defendant agrees that the  
4 stipulated sentencing ranges set forth under "Agreements Regarding Sentence" will not be  
5 offered if prosecution is re-instituted.

6 Disclosure of Information to U.S. Probation Office

7 The defendant understands the government's obligation to provide all information in its  
8 file regarding the defendant to the United States Probation Office. The defendant fully  
9 understands and agrees to cooperate fully with the United States Probation Office in providing  
10 all information requested by the probation officer.

11 Effect of Other Proceedings

12 This agreement does not preclude the United States from instituting any civil or  
13 administrative proceedings as may be appropriate now or in the future.

14 Defendant understands that if defendant violates any of the conditions of defendant's  
15 supervised release, the supervised release term may be revoked. Upon such revocation,  
16 notwithstanding any other provision of this agreement, defendant may be required to serve a  
17 term of imprisonment or defendant's sentence may otherwise be altered.

18 WAIVER OF DEFENDANT'S RIGHTS

19 I have read each of the provisions of the entire plea agreement with the assistance of  
20 counsel and understand its provisions. I have discussed the case and my constitutional and other  
21 rights with my attorney. I understand that by entering my plea of guilty I will be giving up my  
22 right to plead not guilty; to trial by jury; to confront, cross-examine, and compel the attendance  
23 of witnesses; to present evidence in my defense; to remain silent and refuse to be a witness  
24 against myself by asserting my privilege against self-incrimination; to be presumed innocent  
25 until proven guilty beyond a reasonable doubt; and to appeal, all with the assistance of counsel.

26 I agree to enter my guilty plea as indicated above on the terms and conditions set forth  
27 in this agreement.  
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1 I have been advised by my attorney of the nature of the charge to which I am entering my  
2 guilty plea. I have further been advised by my attorney of the nature and range of the possible  
3 sentence and that my ultimate sentence will be determined after consideration of the advisory  
4 Sentencing Guidelines. I agree that any guideline range discussed with my attorney is not  
5 binding on the court and is merely an estimate.

6 My guilty plea is not the result of force, threats, assurance or promises other than the  
7 promises contained in this agreement. I agree to the provisions of this agreement as a voluntary  
8 act on my part, and I agree to be bound according to its provisions.

9 I agree that this written plea agreement contains all the terms and conditions of my plea  
10 and that promises made by anyone (including my attorney) that are not contained within this  
11 written plea agreement are without force and effect and are null and void.

12 I am satisfied that my defense attorney has represented me in a competent manner.

13 I am not now on or under the influence of any drug, medication, liquor, or other  
14 intoxicant or depressant, which would impair my ability to fully understand the terms and  
15 conditions of this plea agreement.

16 ELEMENTS OF THE OFFENSE

17 1. The defendant is an alien;

18 2. The defendant has been previously denied admission, excluded, deported, or  
19 removed from the United States;

20 3. The defendant entered or was found in the United States on or about February 7,  
21 2007;

22 4. The defendant did not obtain the express consent of the Secretary of the  
23 Department of Homeland Security to reapply for admission to the United States prior to  
24 returning to the United States; and

25 5. The offense occurred within the District of Arizona.

1 FACTUAL BASIS AND SENTENCING FACTORS

2 I agree that the following facts accurately describe my conduct in connection with the  
3 offense to which I am pleading guilty and that if this matter were to proceed to trial the  
4 government could prove these facts beyond a reasonable doubt:

5 I am not a citizen or national of the United States. I was deported, excluded, or  
6 removed from the United States through Nogales, Arizona, on or about  
7 December 8, 1998. I was voluntarily present and found in the United States in or  
8 near Mohave Valley, Arizona, on or about February 7, 2007. I did not obtain the  
9 express consent of the Secretary of the Department of Homeland Security to  
10 reapply for admission to the United States prior to returning to the United States.

11 Furthermore, for sentencing purposes, I admit I was convicted of Possession of  
12 Drug Paraphernalia, a felony, on or about August 24, 1998, and I was represented  
13 by an attorney.

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2/26/07  
Date

Ramon F. Frias  
Ramon Frias-Frias  
Defendant

13 DEFENSE ATTORNEY'S APPROVAL

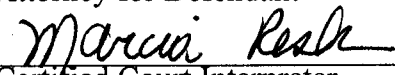
14 I have discussed this case and the plea agreement with my client in detail and have  
15 advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the  
16 constitutional and other rights of an accused, the factual basis for and the nature of the offense  
17 to which the guilty plea will be entered, possible defenses, and the consequences of the guilty  
18 plea, including the defendant's waiver of the right to appeal. I have further discussed the concept  
19 of the advisory sentencing guidelines with the defendant. No assurances, promises, or  
20 representations have been given to me or to the defendant by the government or by any of its  
21 representatives which are not contained in this written agreement. I concur in the entry of the  
22 plea as indicated above and on the terms and conditions set forth in this agreement as in the best  
23 interests of my client. I agree to make a bona fide effort to ensure the guilty plea is entered in  
24 accordance with all the requirements of Rule 11, Fed. R. Crim. P.  
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1 I translated or caused to be translated this agreement from English into Spanish to the  
2 defendant on the 26<sup>th</sup> day of February, 2007.

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4 2/26/07  
Date

  
Matthew Albert Johnson  
Attorney for Defendant

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6 2-26-07  
Date

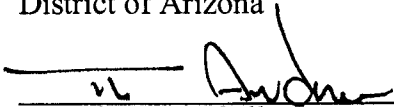
  
Certified Court Interpreter

7 GOVERNMENT'S APPROVAL

8 I have reviewed the defendant's matter and the plea agreement. I agree on behalf of the  
9 United States that the terms and conditions set forth are appropriate and are in the best interests  
10 of justice.  
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12 DANIEL G. KNAUSS  
13 United States Attorney  
14 District of Arizona

15 2-26-07  
Date

  
Beverly R. McCallum  
Assistant U.S. Attorney

16  
17 COURT'S ACCEPTANCE  
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20 Date

United States District Judge